REMARKS

Reconsideration of this application in light of the amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 1-14 and 16-20 are pending. Claim 15 was previously canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1-6, 9, 12, and 16-19 have been amended. Support for the amendments to claims 1 and 6 can be found at page 10, line 21 bridging page 11, line 5. The amendments to claims 2-5, 9, 12, and 16-19 are made to clarify the subject matter recited therein and do not alter the scope of the claims. No new matter has been added.

Claim Objections

The Examiner has objected to claims 1-6, 9-10, 12, and 19 as containing informalities. Applicants have amended claims 1-6, 9, 12 and 19 in response to the Examiner's objections.

With respect to the Examiner's objection to the recitation of "for" within claim 10 as giving "no patentable weight" to "any recitation claimed after," Applicants respectfully disagree. (Office Action, item 3, page 2.) The Examiner contends that "for," as recited by claim 10 indicates "indented use." Applicants submit that in the context of claim 10, "wherein the service probing step is performed for each service of said at least one computer system," the word "for" is used to indicate "correlation or correspondence." (THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 2004) (*available at* http://dictionary.reference.com/browse/for) (accessed September 26, 2006).) Thus, Applicants submit that the recitation of "each service of said at least one computer system," following "for" in claim 10 does not indicate intended use, but recites a correspondence, and therefore should be given patentable weight.

With respect to the Examiner's objection to the recitation of "configuration comprising a service table, a detection table, and a metric table," Applicants have amended claim 1 and claim 6 to clarify the recited invention. Specifically, Applicants have clarified that the configuration is open-ended and includes "a service table that identifies services that can be used to monitor the network environment, a detection table that identifies information that can be used to discover a particular data source, and a metric table that identifies a metric for the particular data source." Thus, configuration includes at least the three tables, and the claims recite the type of information that is included in each table.

Applicants respectfully request reconsideration and withdrawal of the objections to claims 1-6, 9-10, 12, and 19.

Claim Rejections under 35 U.S.C. § 112

Claims 1, 5, 16, 18, and 19 stand rejected under 35 U.S.C. § 112 "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." (Office Action, item 7, page 5.) Applicants have amended each claim to address the issues identified by the Examiner. Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim Rejections under 35 U.S.C. § 101

Claim 1 stands rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter. Specifically, the Examiner contends that claim 1 is directed to software *per se* and therefore does not produce any tangible result nor is it limited to a practical application. (Office Action, item 5, pages 4-5 (*citing* MPEP § 2106 IV.B.2.(b)).)

Applicants have amended claim 1 to recite "a computer implemented system," rather than a computer program. Additionally, claim 1 has been amended to recite various computer hardware elements and further clarifies that the software program recited in the claim is executed by the computer and includes software interaction with the computer hardware elements.

Therefore, claim 1 as amended, recites a concrete, tangible, and useful result having a practical application, and is thus directed to statutory subject matter. Applicants respectfully request reconsideration and withdrawal of this rejection.

Rejection under 35 U.S.C. §102

Claims 1-5 and 17-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,633,835 to Moran et al ("Moran"). Applicants submit that Moran does not disclose all the features recited in independent claim 1.

As set forth in the Specification, "[t]he present invention is directed to a method and system for interfacing with various monitoring information sources from one or more computer systems with minimal user input." (Specification, page 4, lines 20-22.) Specifically, claim 1 is directed to a "computer implemented system for managing and monitoring one or more computer systems comprising: a computer . . . configured to receive monitoring information from the one or more computer systems."

The claimed invention can monitor information from network computer systems and the hardware elements and applications (i.e. software programs) executing on the computer systems (e.g., claim 1 recites "a network device configured to receive monitoring information **from** the one or more computer systems . . . and . . . identifying available data sources **in** said one or more computer systems," (*emphasis added)*).

In contrast, Moran merely monitors and analyzes network traffic, and can not receive monitoring information from identified data sources on the network computer systems.

Claim 1 further recites "a computer program configured to perform the steps of identifying available data sources in said one or more computer systems . . . and . . . scanning said one or more computer systems." Thus, the system of claim 1 can scan the computers attached to the network to detect data sources providing monitoring information.

Furthermore, the system of claim 1 includes "a configuration stored in the computer storage device" that can be "utilized to acquire instructions that query at least one of said computer systems." The configuration includes "a service table identifying one or more services that can be used to monitor said network environment, a detection table identifying information to discover the particular data source, and a metric table identifying a metric for the particular data source," the combination of which provides the information necessary to perform the query. In other words, the configuration provides information and instructions on how to scan and query the computer systems in the networked environment.

The Examiner contends that Moran "discloses a computer program for managing and monitoring one or more computer systems."

However, Applicants submit that Moran is directed to "reliable and efficient data monitoring in a **network, application** monitoring system." (Moran, col. 1, lines 17-19 (emphasis added).) More particularly, Moran discloses a system through which "**[d]ata is collected from a network segment** and classified into multiple flows." (Moran, col. 2, lines 8-9 (emphasis added).) The "monitoring system 120 is coupled to a network 108," and includes "one or more media modules [that] . . . **provide a physical observation point of network traffic** on a given segment 306." (Moran, col. 4, lines 37-38; Moran, col. 5, lines 31-14 (emphasis added.))

Thus, Moran is directed at collecting data from a network by analyzing network traffic. Moreover, Moran is incapable of monitoring or managing monitor information that is maintained locally at the network computer systems.

In contrast, claim 1 can remotely access monitor information, such as CPU time, throughput, disk access, or other data that can not be discerned from analyzing network traffic. Specifically, claim 1 recites "a network device configured to receive monitoring information from the one or more computer systems . . . scanning said one or more computer systems to generate a list of the available data sources in said scanned computer systems".

The Examiner further contends that Moran discloses the features of "a data source detection module for identifying available data sources in said one or more computer systems . . . wherein said data source detection module scans said one or more computer systems." (Office Action, item 9, page 7 (*citing* column 38, lines 26-30; and Column 17, lines 31-58).).

However, column 38, lines 26-30 of Moran merely disclose establishing triggers "on various objects that are associated with the performance metrics calculated for specific protocol/application," and column 17, lines 31-58 merely disclose a "configuration server [that] provides access to [the monitoring] system configuration functions and information." Moreover, the configuration information is provided to the user through the user interface ("UI"), and is not utilized to scan or identify available data sources to the monitoring system. Moran is incapable of scanning computer systems for information sources, because the focus of Moran is observation and monitoring of existing "network traffic on a given segment." (Moran, column 5, lines 39-44.)

Neither the passages cited, nor any other passage of Moran disclose "identifying one or more services that can be used to monitor at least one of said computer systems" by "scanning said one or more computer systems to generate a list of the available data sources in said scanned computer systems," as recited by claim 1.

Furthermore, Applicants have amended claim 1 to recite:

> a configuration . . . utilized by said data source detection module to acquire instructions that query at least one of said computer systems, said configuration including a service table identifying one or more services that can be used to monitor said network environment, a detection table identifying information to discover the particular data source, and a metric table identifying a metric for the particular data source.

The Examiner contends that Moran discloses this feature of the claimed invention.

However, Applicants submit that Moran does not disclose the use of a configuration that includes the information recited in order to provide instructions on how to query a particular computer system for monitoring information or available data sources. As discussed above, in contrast to the claimed invention, Moran can not "query . . . computer systems" or "scan[]. . . computer systems on the network, but rather passively observes "network traffic on a given segment." (Moran, column 5, lines 37-41.)

Thus, the configuration disclosed in Moran is substantially different from the configuration of the claimed invention. Moran provides a configuration that "provides access to system configuration functions and information" (e.g., logging, statistics, alarm, and even capabilities). (Moran, col. 17, lines 31-53.) Claim 1 provides a "configuration including a service table . . . a detection table . . .and a metric table" that is "utilized to query at least one of said computer systems."

Therefore, for at least the reasons discussed above, Applicants submit that Moran neither discloses nor suggests each and every feature recited in claim 1. Therefore, Moran does not anticipate the invention of claim 1.

Claims 2-5 and 17-18 depend from claim 1. Applicants submit that claims 2-5 and 17-18 are patentable for at least the same reasons as discussed above with respect to claim 1. Reconsideration and withdrawal of the rejection is respectfully requested.

Independent claim 6 recites features that are substantially similar to those features of claim 1 demonstrated above to be missing from Moran. Thus, Applicants submit that Moran does not disclose nor suggest the invention recited in claim 6 for at least the reasons discussed above with respect to claim 1.

Claims 7-14, 16, and 19-20 depend from independent claim 6. Applicants submit that claims 7-14, 16, and 19-20, by virtue of their dependency from claim 6, are patentable for at least the reasons as discussed above.

Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

Each and every point raised in the Final Office Action dated July 3, 2006 has been addressed on the basis of the above amendments and remarks. In view of the foregoing it is believed that claims 1-14 and 16-20 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

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